

## § 50.21

the relevant documentation for relocation of equipment to the veterinarian in charge.

(Approved by the Office of Management and Budget under control number 0579-0193)

### § 50.21 Schedule of payments.

(a) The Department will make payment, other than for reimbursement of relocation expenses of the equipment of the reverse osmosis plant, at 90-day intervals. The first payment will be made no earlier than 30 days after all owners eligible for payment have signed their agreements required under § 50.17(b). The Department will determine the amount to be paid to each owner in each payment by multiplying the total agreement amount for that owner by a fraction that is arrived at by dividing the initial census number of dairy cattle for the respective owner into the number of dairy cattle that have been removed from the owner's herd during that payment period. From this amount, 10 percent will be withheld until all animals in the herd have been disposed of and the requirements of this subpart have been met. The payments to other property owners will be determined by multiplying the total agreement amount for that other property times the same ratio as for the herd related to that other property, minus 10 percent. The Department will make payment for reimbursement of relocation expenses of the reverse osmosis plant within 30 days after the relocation of the plant is completed and the owner of the plant has submitted to APHIS all documentation of the costs of the relocation.

(b) The Department will not make final payments until the premises used for dairy operations have been without sexually intact cattle for at least 30 days and until APHIS has inspected the premises and has found them to be free of manure, except for non-solid areas such as lagoons, and free of all feedstuffs that are not in barns, containers or feeders.

### § 50.22 Claims not allowed.

The Department will not allow claims for payment if the claimant has failed to comply with any of the requirements of this subpart, or there is substantial evidence, as determined by

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the Administrator, that the claimant has been responsible for any attempt to obtain payment funds for such cattle or other dairy property unlawfully or improperly.

## PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

### Subpart A—Indemnity for Cattle, Bison, and Swine

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

### Subpart A—Indemnity for Cattle, Bison, and Swine

#### § 51.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with the provisions of

part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative state-federal disease control and eradication programs.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

*Animals.* Cattle, bison, and breeding swine.

*APHIS representative.* An individual employed by APHIS who is authorized to perform the function involved.

*Appraisal.* An estimate of the fair market value of an animal to be destroyed because of brucellosis. The estimate shall be based upon the meat, dairy, or breeding value of the animal.

*Brucellosis exposed animal.* Except for a brucellosis reactor animal, any animal that: (1) Is part of or has been in contact with a herd known to be affected; or (2) has been in contact with a brucellosis reactor animal for a period of 24 hours or longer; or (3) has been in contact with a brucellosis reactor animal which has aborted, calved or farrowed within the past 30 days, or has a vaginal or uterine discharge.

*Brucellosis reactor animal.* Any animal classified as a brucellosis reactor as provided in the definition of official test in §78.1 of this chapter.

*Claimant.* A person who files a claim for indemnity under §51.7 for animals destroyed under this part.

*Complete herd test.* An official test for brucellosis (as defined in 9 CFR 78.1) performed under APHIS supervision in a cattle or bison herd on all cattle or bison that are (1) 6 months of age or more and not official vaccinates, except steers and spayed heifers; or (2) Official calfhood vaccinates of any age that are parturient or postparturient; or (3) Official calfhood vaccinates of beef breeds or bison with the first pair of permanent incisors fully erupted (2 years of age or more); or (4) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair

of permanent incisors (20 months of age or more).

*Condemn.* The determination made by an APHIS representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this Part shall be destroyed.

*Dairy cattle.* A female bovine of a recognized dairy breed over 20 months of age, which has calved or is within 90 days of parturition and which is a member of a dairy herd used to produce milk for commercial use.

*Destroyed.* Condemned under State authority and slaughtered or otherwise dies.

*Herd.* Any group of animals of the same species maintained on common ground for any purpose, or two or more groups of animals (of the same species) under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

*Herd Depopulation.* Removal by slaughter or other means of destruction of all cattle, bison, or swine in a herd or from a specific premises or under common ownership prior to restocking such premises with new animals, except that steers and spayed heifers or barrows and gilts maintained for feeding purposes may be retained on the premises if the Veterinarian in Charge finds such retention to be compatible with eradication efforts. The Veterinarian in Charge may also permit removal of nonpregnant heifers, without payment of indemnity, to Quarantined Feedlots in lieu of immediate slaughter.

*Herd known to be affected.* Any herd in which any animal has been classified as a brucellosis reactor and which has not been released from quarantine.

*Inbred or hybrid swine.* Any breeding swine which are the progeny of two or more breeds of registered swine and which are maintained to produce inbred or hybrid swine, and for which records of ancestry exist through which such swine can be individually identified as progeny of said registered swine.

*Mortgage.* Any mortgage, lien, or other security or interest that is recorded under State law or identified in

the indemnity claim form filed under §51.7 and held by any person other than the one claiming indemnity.

*Official seal.* A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged, which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the State animal health official.

*Owner.* Any person who has a legal or rightful title to animals whether or not they are subject to a mortgage.

*Permit.* An official document for movement of animals under this subpart issued by an APHIS representative, state representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification.

*Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

*Recognized slaughtering establishment.* Any slaughtering establishment operating under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State meat inspection act.<sup>1</sup>

*Registered breed association.* An association formed and perpetuated for the maintenance of records of purebreeding of animal species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association. The records maintained by such an association shall include an Official Herd Book or other recordkeeping format and Certificates of Registration or Recordation which identify an animal as a registered animal of that registered breed association. Known registered breed associations are: American Angus Association, American Beefalo Association, Inc., The American Black Maine-Anjou Association, American Blonde d'Aquitaine Association, American Brahman Breeders Association, American Brahmental Association, Amer-

ican Breed Association, Inc., American Chianina Association, American Dexter Cattle Association, American Galloway Breeders Association, American Gelbvieh Association, American Guernsey Cattle Club, American Hereford Association, American International Charolais Association, American (International) Marchigiana Society, American Jersey Cattle Club, American Maine-Anjou Association, American Milking Shorthorn Society, American Murray Grey Association, American Normande Association, American Pinzgauer Association, American Polled Hereford Association, American Red Brangus Association, American Red Poll Association, American Salers Association, American Scotch Highland Breeders Association, American Shorthorn Association, American Simmental Association, Inc., American Tarentaise Association, Ankina Breeders, Inc., Ayrshire Breeders Association, Barzona Breed Association of America, Beefmaster Breeders Universal, Belted Galloway Society, Brahmanstein Breeders Association, Brown Swiss Beef International, Inc., Brown Swiss Cattle Breeders Association of U.S.A., Char-Swiss Breeders Association, Devon Cattle Association, Inc., Dutch Belted Cattle Association of America, Inc., Foundation Beefmaster Association, Galloway Cattle Society of America, Inc., Galloway Performance International, Holstein-Friesian Association of America, International Braford Association, International Brangus Breeders Association, Inc., International Maine-Anjou Association, Marky Cattle Association, Mid America RX<sup>3</sup> Cattle Company, National Beefmaster Association, North American Limousin Foundation, Pan American Zebu Association, Red and White Dairy Cattle Association, Red Angus Association of America, Red Poll Beef Breeders International, Red Poll Cattle Club of America, Santa Gertrudis Breeders International, Simbrah Association, South Devon Breed Society, Sussex Cattle Association of America, Texas Longhorn Breeders Association of America, and White Park Cattle Association of America.

<sup>1</sup>A list of recognized slaughtering establishments is available upon request from the Animal and Plant Health Inspection Service, 4700 River Road Unit 37, Riverdale, MD 20737-1231.

*Registered cattle.* Cattle for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association.

*Registered swine.* Any breeding swine for which a certificate of pure breeding has been issued by a purebred swine association.

*Sexually intact exposed female calf.* A female bovine less than 6 months of age that is nursed by a brucellosis reactor at the time such reactor is condemned, and that has not been altered to make it incapable of reproduction.

*Specifically approved stockyard.* Premises approved by the Administrator, in accordance with § 71.20 of this chapter, for assembling cattle or bison for sale.<sup>2</sup>

*State.* Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

*State animal health official.* The individual employed by a State who is responsible for livestock and poultry disease control and eradication programs in that State.

*State representative.* An individual employed in animal health activities by a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

*Unofficial vaccinate.* Any cattle or bison which have been vaccinated for brucellosis other than in accordance with the provisions for official vaccines set forth in § 78.1 of this chapter.

*Veterinarian in Charge.* The veterinary official of the Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Administrator to supervise and perform official animal health work of the Animal and Plant

Health Inspection Service, in the State concerned.

[42 FR 64336, Dec. 23, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 51.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 51.2 Cooperation with States.

The Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellosis-exposed animals.

[42 FR 64336, Dec. 23, 1977, as amended at 54 FR 32435, Aug. 8, 1989]

### § 51.3 Payment to owners for animals destroyed.

(a) *Cattle and bison.* The Administrator may authorize the payment of Federal indemnity by the U.S. Department of Agriculture to any owner whose cattle or bison are destroyed after having been approved for destruction by APHIS under the brucellosis eradication program.<sup>3</sup> In all cases, the amount of Federal indemnity will be determined in accordance with the regulations in this part that were in effect on the date that reactors were found or the date that whole-herd depopulation or destruction of individual animals was approved. Prior to payment of indemnity, proof of destruction<sup>4</sup> must be

<sup>3</sup>The Administrator shall authorize payment of Federal indemnity by the U.S. Department of Agriculture at the maximum per-head rates in § 51.3: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

<sup>4</sup>The Veterinarian in Charge shall accept any of the following documents as proof of destruction: (a) A postmortem report; (b) a meat inspection certification of slaughter; (c) a written statement by a State representative, APHIS representative, or accredited veterinarian attesting to the destruction of the animal; (d) a written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animal; (e)

*Continued*

<sup>2</sup>Notices containing lists of specifically approved stockyards are published in the FEDERAL REGISTER. Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or APHIS representatives.

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furnished to the Veterinarian in Charge.

(1) *Eligibility for indemnity.* Owners of the following types of animals destroyed because of brucellosis are eligible to receive Federal indemnity for their animals:

(i) Cattle and bison identified as reactors as a result of a complete herd test and any sexually intact exposed female calves;

(ii) Cattle and bison in a herd that has been approved for depopulation; and

(iii) Brucellosis-exposed cattle and brucellosis-exposed bison that were previously sold or traded from any herd that was, subsequent to the sale or trade, found to be affected with brucellosis. Epidemiological information such as test results, herd history, and related evidence will be used to establish a probable date when the herd was first affected with brucellosis. Animals sold after that date will be considered to be exposed; those sold before that date will not.

(2) *Maximum per-head indemnity amounts.* Owners of the types of animals described in §51.3(a)(1) are eligible to receive Federal indemnity for their animals in the following amounts:

(i) *Brucellosis reactors and sexually intact exposed female calves.* Except for brucellosis reactors and sexually intact exposed female calves destroyed as part of a whole-herd depopulation, the indemnity for cattle and bison that are brucellosis reactors shall not exceed \$250 for any registered cattle and non-registered dairy cattle or \$50 for any bison or nonregistered cattle other than dairy cattle, and the indemnity for sexually intact exposed female calves shall not exceed \$50.

(ii) *Herd depopulations and individual exposed animals.* Owners of herds that have been approved for depopulation and owners of brucellosis-exposed cattle and brucellosis-exposed bison that meet the conditions of §51.3 (a)(1)(iii) may choose either of the two methods

described in paragraphs (a)(2)(ii)(A) and (a)(2)(ii)(B) of this section, involving fair market value of the animal to be destroyed or a fixed rate, for determining the maximum amounts of indemnity they may receive.<sup>3</sup> The method chosen must be used for all animals to be destroyed. Owners have the option of having an appraisal done prior to choosing the method used. Appraisals will be conducted by an independent appraiser selected by the Administrator. The cost of the appraisals will be borne by APHIS.

(A) *Appraisal method.* Each eligible animal will be appraised to determine its fair market value. The indemnity shall be the appraised value, minus the salvage value.

(B) *Fixed-rate method.* The indemnity shall not exceed \$250 per animal for bison and nonregistered cattle other than dairy cattle and \$750 per animal for registered cattle and nonregistered dairy cattle.

(b) *Swine*—(1) *Brucellosis reactor swine.* The Administrator may authorize<sup>3</sup> the payment of Federal indemnity by the United States Department of Agriculture to an owner whose breeding swine are destroyed as brucellosis reactors. The indemnity shall not exceed \$25 per head for registered, inbred, or hybrid swine, or \$10 per head for all other breeding swine. Prior to payment of indemnity, proof of destruction<sup>4</sup> shall be furnished to the Veterinarian in Charge.

(2) *Herd depopulation.* The Administrator may authorize<sup>3</sup> the payment of Federal indemnity by the United States Department of Agriculture to an owner whose herd of breeding swine or whose whole herd is destroyed because of brucellosis. The indemnity shall not exceed \$150 per head for registered, inbred, or hybrid breeding swine, and \$65 per head for all other breeding swine, except that in the case of whole herd depopulation, indemnity payments shall be paid on all swine in the herd at fair market value, as determined by the Administrator, based on an appraisal conducted by an independent appraiser assigned by the Administrator. In cases where indemnity is paid for whole herd depopulation, indemnity payments, plus any salvage, must not exceed the appraised value of

a permit (VS Form 1–27) consigning the animal from a farm or livestock market directly to a recognized slaughtering establishment; or (f) in unique situations where the documents listed above are not available, other similarly reliable forms of proof of destruction.

each animal. Indemnity payment shall be made only for brucellosis exposed swine or for swine from a herd known to be affected and only when the Administrator determines that the destruction of all swine in the herd will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction<sup>4</sup> shall be furnished to the Veterinarian in Charge.

(3) *Exposed swine.* The Administrator may authorize<sup>3</sup> the payment of Federal indemnity by the United States Department of Agriculture to an owner whose breeding swine are destroyed because of brucellosis. The indemnity shall not exceed \$150 per head for registered, inbred, or hybrid swine, or \$65 per head for all other breeding swine. Indemnity payment shall be made only for such brucellosis exposed swine and only when the Administrator determines that the destruction of such swine will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction<sup>4</sup> shall be furnished to the Veterinarian in Charge.

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[42 FR 64336, Dec. 23, 1977, as amended at 45 FR 43679, June 27, 1980; 46 FR 13673, Feb. 23, 1981; 46 FR 57027, Nov. 20, 1981; 47 FR 53323, Nov. 26, 1982; 48 FR 57472, Dec. 30, 1983; 50 FR 11993, Mar. 27, 1985; 51 FR 11300, Apr. 2, 1986; 54 FR 32435, Aug. 8, 1989; 56 FR 18505, 18506, Apr. 23, 1991; 57 FR 49376, Nov. 2, 1992; 57 FR 60086, Dec. 18, 1992; 59 FR 12533, Mar. 17, 1994; 59 FR 21635, Apr. 26, 1994; 59 FR 52235, Oct. 17, 1994; 63 FR 15284, Mar. 31, 1998; 63 FR 47423, Sept. 8, 1998]

#### § 51.4 Record of tests.

The claimant shall be responsible for providing information to an APHIS representative, State representative, or accredited veterinarian so that a complete test record may be made by such person on an APHIS approved form for each herd known to be affected, including the reactor tag number of each brucellosis reactor animal and the registration name and number of each brucellosis reactor registered animal. A copy of the applicable test record shall be given to the owner of any such herd, and one copy of each such record shall be furnished to the appropriate

State veterinarian's office by such person who completes the test record.

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#### § 51.5 Identification of animals to be destroyed because of brucellosis.

(a) The claimant shall be responsible for insuring that any animal for which indemnity is claimed shall be identified in accordance with the provisions of this section within 15 days after having been classified as a reactor or for any other animal subject to this part within 15 days after having been condemned. The veterinarian in charge may extend the time limit to 30 days when a request for such extension is received by him prior to the expiration date of the original 15 day period allowed, and when he determines that the extension will not adversely affect the brucellosis eradication program; and except further, that the Administrator shall upon request in specific cases, extend the time limit beyond the 30-day period when unusual or unforeseen circumstances occur which prevent or hinder the identification of the animals within the 30-day period, such as, but not limited to, floods, storms, or other Acts of God which are beyond the control of the owner, or when identification is delayed due to requirements of another Federal Agency.

(b) Except as provided in paragraph (b)(4) of this section, cattle and bison to be destroyed because of brucellosis shall be individually identified prior to moving interstate by attaching to the left ear a metal tag bearing a serial number and the inscription "U.S. Reactor," or a similar State reactor tag, and must be:

(1) "B" branded (as defined in § 78.1); or

(2) Accompanied directly to slaughter by an APHIS or State representative; or

(3) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official

seal numbers must be recorded on the accompanying permit.

(4) Reactor and exposed cattle and bison in herds scheduled for herd depopulation may be moved interstate without eartagging or branding if they are identified by USDA approved backtags and either accompanied directly to slaughter by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(c) Swine shall be individually identified by tagging with a metal tag bearing a serial number and inscription “U.S. Reactor” or a similar State reactor tag or other identification approved by the Administrator, upon request in specific cases, attached to the left ear of each animal.

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#### §51.6 Destruction of animals; time limit for destruction of animals.

(a) *Cattle*. The claimant shall be responsible for ensuring that cattle subject to this part shall be sold under permit to a recognized slaughtering establishment or to a specifically approved stockyard for sale to a recognized slaughtering establishment.

(b) *Bison*. The claimant shall be responsible for insuring that bison subject to this part shall be sold under permit to a State or Federal slaughtering establishment approved by the Administrator for this purpose or to a stockyard approved by the Administrator for sale to such a slaughtering establishment, *Provided, However, That* the Administrator may approve such other bison slaughtering establishments as may be deemed necessary to accomplish destruction of bison subject to this part.

(c) *Swine*. The claimant shall be responsible for insuring that swine subject to this part shall be sold under

permit to a slaughtering establishment where State or Federal Meat inspection is available, or to a market approved by the State Animal Health Official, or to a market approved by the Administrator, for sale to such slaughtering establishment;<sup>5</sup> except that in the case of indemnity for whole herd depopulation, as provided for in §51.3, swine shall be destroyed, if possible, on the premises where the animals are held or penned at the time the indemnity is approved, or may be moved for destruction to another location when movement to the location is approved in advance by an APHIS representative. In cases where the swine are destroyed other than at a slaughtering establishment, the carcasses of the swine shall be disposed of by burial, incineration, or other disposal means authorized by applicable State law. The destruction and disposition of animals destroyed in accordance with this section other than at a slaughtering establishment shall be performed in the presence of an APHIS representative.

(d) *Time limit for destruction of animals*. Payment of indemnity shall be made under this part only if the animals are destroyed within 15 days after the date of identification, pursuant to §51.5 of the regulations in this part, except that the appropriate Veterinarian in Charge may extend the time limit to 30 days when request for such extension is received from the owner prior to the expiration date of the original 15-day period allowed, or when the animals were sold for slaughter prior to the expiration date of the original 15-day period, and when the Veterinarian in Charge determines that such extension will not adversely affect the Brucellosis Eradication Program; and except further, that the Administrator shall, upon request in specific cases, extend the time limit beyond the 30-day period when unusual and unforeseen circumstances occur which prevent or hinder the destruction of the animals within the 30-day period, such as, but not limited to, floods, storms, or other Acts of God which are beyond

<sup>5</sup>Markets are approved by the Administrator in accordance with §76.18 of this chapter.

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the control of the owner, or when destruction is delayed due to requirements of another Federal Agency.

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### §51.7 Claims for indemnity.

(a) Claims for indemnity for animals destroyed because of brucellosis shall be presented on indemnity claim forms furnished by APHIS on which the owner of the animals covered thereby shall certify that the animals are or are not subject to any mortgage as defined in this part. If the owner states there is a mortgage, the APHIS indemnity claim form shall be signed by the owner and by each person holding a mortgage on the animals, consenting to the payment of any indemnity allowed to the person specified thereon. Payment will be made only if the claimant has submitted a complete indemnity claim form to, and such claim has been approved by the Veterinarian in Charge or by an APHIS representative designated by him. On claims for indemnity made under the provisions of §51.3, the Veterinarian in Charge or an APHIS representative designated by him shall record on the APHIS indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals shall be furnished a copy of the completed APHIS indemnity claim form. The Veterinarian in Charge or an APHIS representative designated by him shall then forward the completed APHIS indemnity claim form to the Administrator for further action on the claim. No charges for holding the animals on the farm pending slaughter or for trucking by the owner shall be so deducted or otherwise paid by the United States Department of Agriculture.

(b) Claims for indemnity for registered cattle shall be accompanied by the cattle's registration papers issued in the name of the owner. If the reg-

istration papers are unavailable or if the cattle are less than 1 year old and are not registered at the time the claim for indemnity is submitted, the Veterinarian in Charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers.

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### §51.8 Disinfection of premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, and materials, contaminated because of occupation or use by brucellosis reactor or exposed animals shall be properly cleaned and disinfected with a disinfectant permitted by APHIS in accordance with recommendations of the APHIS or State representative within 15 days from the date reactors were removed from the premises, except that the appropriate Veterinarian in Charge may extend the time limit for disinfection to 30 days when request for such extension is received by him prior to the expiration date of the original 15-day period allowed, and when he determines that such extension will not adversely affect the Brucellosis Eradication Program; and except further, that the Administrator may, upon request in specific cases, extend the time limit beyond the 30-day period when unusual and unforeseen circumstances occur, such as but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner, preventing or hindering the disinfection of premises, conveyances, and materials. Certain premises may be exempted from such cleaning and disinfecting requirements by approval of the appropriate Veterinarian in Charge on written recommendations by the APHIS or State representative or when a written report by the APHIS or State representative determines that there are no buildings, holding facilities, conveyances, or other materials on the



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premises that would require such cleaning and disinfection.

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### §51.9 Claims not allowed.

Claims for compensation for animals destroyed because of brucellosis shall not be allowed if any of the following circumstances exist:

(a) If the claimant has failed to comply with any of the requirements of this part.

(b) If the existence of brucellosis in the animal was determined based on the results of an official test, as defined in §78.1 of this chapter, and specific instructions for the administration of the official test had not previously been issued to the individual performing the test by APHIS and the State animal health official.

(c) If all cattle, bison, and swine eligible for testing in the claimant's herd have not been tested for brucellosis under APHIS or State supervision.

(d) If the animals are:

(1) Barrows or gilts maintained for feeding purposes; or

(2) Spayed heifers or steers, unless the steers are work oxen, or unless the spayed heifers or steers are unweaned animals in a herd approved for depopulation in accordance with §51.3 of this part.

(e) If the animals are classified as reactors and are unofficial vaccinates, unless there is either a record of a negative official test made not less than 30 days following the date of unofficial vaccination or unless other APHIS approved tests show the unofficial vaccinates are affected with virulent *Brucella*.

(f) If there is substantial evidence that the owner or his agent has in any way been responsible for any unlawful or improper attempt to obtain indemnity funds for such animal.

(g) If, at the time of test or condemnation, the animals belonged to or were upon the premises of any person to whom they had been sold for slaugh-

ter; shipped for slaughter, or delivered for slaughter.

(h) If any known brucellosis reactor animal remains in the herd, unless, in the opinion of the Veterinarian in Charge, a reasonable search has been made for the brucellosis reactor animal and the brucellosis reactor animal could not be found and removed.

(i) If the animals are brucellosis reactor animals which are slaughtered other than as part of a herd depopulation, and which are from a herd: (1) That was already classified as a "herd known to be affected" at the time the animals were identified as brucellosis reactor animals and (2) for which an approved action plan or approved individual herd plan (as defined in §78.1 of this chapter) was not in effect at the time the claim was filed.

(Approved by the Office of Management and Budget under control number 0579–0047)

[42 FR 64336, Dec. 23, 1977. Redesignated at 46 FR 13674, Feb. 23, 1981, and 47 FR 53324, Nov. 26, 1982, and amended at 47 FR 53324, Nov. 26, 1982; 48 FR 57472, Dec. 30, 1983; 50 FR 11993, Mar. 27, 1985; 50 FR 47036, Nov. 14, 1985; 51 FR 11300, Apr. 2, 1986; 54 FR 32435, Aug. 8, 1989; 56 FR 18506, Apr. 23, 1991; 63 FR 47423, Sept. 8, 1998]

### §51.10 Part 53 of this chapter not applicable.

No claim for indemnity for animals destroyed because of brucellosis shall hereafter be paid under the regulations contained in part 53 of this chapter, but all such claims shall be presented and paid pursuant to and in compliance with regulations contained in this part.

[42 FR 64336, Dec. 23, 1977. Redesignated at 46 FR 13674, Feb. 23, 1981, and 47 FR 53324, Nov. 26, 1982; 50 FR 11993, Mar. 27, 1985]

## Subpart B—Indemnity for Sheep, Goats, and Horses

SOURCE: 69 FR 41912, July 13, 2004, unless otherwise noted.

### §51.20 Definitions.

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform

functions required by cooperative State-Federal disease control and eradication programs.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Affected herd/flock.* Any herd or flock in which any cattle, bison, breeding swine, sheep, or goat has been classified as a brucellosis reactor and which has not been released from quarantine.

*Animal.* Sheep, goats, and horses.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*APHIS representative.* An individual employed by APHIS who is authorized to perform the function involved.

*Appraisal.* An estimate of the fair market value of an animal to be destroyed because of brucellosis.

*Brucellosis exposed.* Except for brucellosis reactors, animals that are part of a herd known to be affected, or are in a quarantined feedlot or a quarantined pasture, or are brucellosis suspects, or that have been in contact with a brucellosis reactor for a period of 24 hours or more, or for a period of less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

*Brucellosis reactor animal.* (1) Any sheep or goat that has been determined by a designated brucellosis epidemiologist<sup>1</sup> to be affected with brucellosis, based on test results, herd/flock history, and/or culture results. Any test used for cattle and bison under the APHIS official brucellosis eradication program (see part 78 of this chapter) may be used, but test results must be interpreted by a designated brucellosis epidemiologist.

(2) Any horse that has been determined by a designated brucellosis epidemiologist to be affected with brucellosis, based on epidemiological information or culture results, or positive

results for brucellosis in accordance with one of the following tests:

Test	Positive results
Standard plate test (SPT) .....	If antibody titer positive at 1:100 dilution or higher.
Standard tube test (STT) .....	If antibody titer positive at 1:100 dilution or higher.
Rivanol test .....	If antibody titer positive at 1:50 dilution or higher.
Particle concentration fluorescence immunoassay (PCFIA).	If reading is 0.3 or lower.
Complement fixation test (CF)	If reading is 2+;20 dilution.

(3) Any cattle, bison, or swine classified as a brucellosis reactor as provided in the definition of official test in § 78.1 of this chapter.

*Condemn.* The determination made by an APHIS representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this subpart will be destroyed.

*Designated brucellosis epidemiologist.* An epidemiologist selected by the State animal health official and the Veterinarian in Charge to perform the functions required. The regional epidemiologist and the APHIS brucellosis staff must concur in the selection and appointment of the designated epidemiologist.

*Destroyed.* Condemned under State authority and slaughtered or otherwise dies.

*Flock.* Any group of sheep maintained on common ground for any purpose, or two or more groups of sheep under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

*Herd.* Any group of goats, or mixed sheep and goats, maintained on common ground for any purpose, or two or more groups of goats, or two or more groups of mixed sheep and goats, under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

*Herd/flock depopulation.* Removal by slaughter or other means of destruction of all sheep or goats in a flock or herd, or from a specific premises or under common ownership prior to restocking such premises with new animals.

<sup>1</sup>Requirements for designated brucellosis epidemiologists are contained in Veterinary Services Memorandum No. 551.10. A copy of this memorandum may be obtained from an APHIS representative, the State animal health official, or a State representative.

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*Mortgage.* Any mortgage, lien, or interest that is recorded under State law or identified in the indemnity claim form filed in accordance with this subpart, and held by any person other than the one claiming indemnity.

*Official seal.* A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the State animal health official.

*Owner.* Any person who has legal or rightful title to sheep, goats, and horses, whether or not the animals are subject to a mortgage.

*Permit.* An official document for movement of animals under this subpart issued by an APHIS representative, State representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification.

*Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

*Registered sheep and goats.* Sheep and goats for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the species, and for which individual registration certificates are issued and recorded by such breed association.

*State.* Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

*State representative.* An individual employed in animal health activities by a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

*Veterinarian in Charge.* The APHIS veterinary official who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State or area

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concerned, or any person authorized to act for the Veterinarian in Charge.

### §51.21 Cooperation with States.

The Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellosis-exposed animals.

### §51.22 Payment to owners for goats, sheep, and horses destroyed.

(a) The Administrator may authorize the payment of Federal indemnity by the U.S. Department of Agriculture to any owner whose goats, sheep, or horses are destroyed after having been approved for destruction by APHIS.<sup>1</sup> Goats or sheep must be destroyed as part of a whole herd/flock depopulation to be eligible for Federal indemnity.

(b) The amount of Federal indemnity will be determined in accordance with the regulations in this part that were in effect on the date infected animals were found, or the date that the whole-herd/flock depopulation or destruction of individual animals was approved.

(c) Prior to payment of indemnity, proof of destruction must be furnished to the Veterinarian in Charge.

### §51.23 Eligibility for indemnity.

Owners of animals destroyed because of brucellosis are eligible to receive Federal indemnity for their animals if the animals are:

(a) Sheep and goats in an affected herd or flock;

(b) Sheep and goats that were obtained from a herd or flock that was subsequently found to be an affected herd or flock. Epidemiological information such as test results, herd/flock history, and related evidence will be used to establish a probable date when the herd or flock was first affected with

<sup>1</sup>The Administrator will authorize payment of Federal indemnity by the U.S. Department of Agriculture as provided in §51.24: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

brucellosis. Animals removed from the herd or flock after that date will be considered exposed to the disease and eligible for indemnity; those removed before that date will not;

(c) Individual horses that have been found to be brucellosis reactor animals.

**§ 51.24 Maximum per-head indemnity amounts.**

Owners of the types of animals listed in § 51.22 of this subpart are eligible to receive Federal indemnity for their animals. All animals must be individually appraised to determine their fair market value. The indemnity amount will be the appraised value minus the salvage value of the animal, up to a maximum of \$20,000 per animal in the case of horses. An independent appraiser selected by the Administrator will conduct appraisals. APHIS will pay the cost of appraisals.

**§ 51.25 Proof of destruction.**

The Veterinarian in Charge will accept any of the following documents as proof of destruction:

- (a) A postmortem report;
- (b) A meat inspection certification of slaughter;
- (c) A written statement by a State representative, APHIS representative, or accredited veterinarian attesting to the destruction of the animals;
- (d) A written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animals;
- (e) A permit (VS Form 1-27) consigning the animal from a farm or livestock market directly to a slaughter establishment; or
- (f) In unique situations where none of the documents listed above are available, other similarly reliable forms of proof of destruction.

(Approved by the Office of Management and Budget under control number 0579-0185)

**§ 51.26 Record of tests.**

An APHIS representative, State representative, or accredited veterinarian will compile, on an APHIS-approved form, a complete test record for each animal. The claimant must provide any information necessary to complete the form. The test record must include the type of test and the test results for

each animal. It must also include the individual identification of each tested animal. Any unique, individually numbered identification is acceptable. The animal's owner and the appropriate State veterinarian's office will each receive a copy of the test record.

(Approved by the Office of Management and Budget under control number 0579-0185)

**§ 51.27 Identification of goats, sheep, and horses to be destroyed.**

The claimant must ensure that any goats, sheep, and horses for which indemnity is claimed are marked with unique, individually numbered identification showing they are to be destroyed. This must be done within 15 days after the animals are condemned. The Veterinarian in Charge may extend the time limit to 30 days when the Veterinarian in Charge receives a request for extension prior to the expiration date of the original 15-day period, and when the Veterinarian in Charge determines that the extension will not adversely affect the brucellosis eradication program. However, the Administrator may extend the time limit beyond 30 days when unusual or unforeseen circumstances occur that prevent or hinder the identification of the animal within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or when identification is delayed due to requirements of another Federal agency.

(Approved by the Office of Management and Budget under control number 0579-0185)

**§ 51.28 Moving goats, sheep, and horses to be destroyed.**

Goats, sheep, and horses to be destroyed because of brucellosis must be accompanied by a permit and either:

- (a) Accompanied directly to slaughter by an APHIS or State representative; or
- (b) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official

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seal numbers must be recorded on the accompanying permit.

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### §51.29 Destruction of animals; time limit.

(a) The claimant must ensure that goats, sheep, and horses infected with or exposed to *B. abortus* are either:

(1) Sold under permit to a recognized slaughtering establishment;

(2) Moved to an approved stockyard for sale to a recognized slaughtering establishment; or

(3) Destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(b) The claimant must ensure that goats and sheep destroyed because of *B. melitensis* are destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(c) Indemnity will be paid under this part only if the animals are destroyed within 15 days after the date they are marked with identification showing they are to be destroyed. However, the Veterinarian in Charge may extend the time limit to 30 days if:

(1) The animals' owner asks the Veterinarian in Charge for an extension before the initial 15-day period expires, or the animals were sold for slaughter before the original 15-day period expires; and

(2) The Veterinarian in Charge determines that extending the time limit will not adversely affect the Brucellosis Eradication Program.

(d) The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder the destruction of the animals within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or when destruction is delayed due to requirements of another Federal agency.

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### §51.30 Claims for indemnity.

(a) Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis must be made using an indemnity claim form furnished by

APHIS. On the form, the owner of the animals must certify whether the animals are subject to a mortgage. If the owner states there is a mortgage, the claim form must be signed by the owner and by each mortgage holder, consenting to the payment of any indemnity allowed to the owner. Payment will be made only if the claimant has submitted a complete indemnity claim form to the Veterinarian in Charge and the claim has been approved by the Veterinarian in Charge or by an APHIS representative designated by him or her. The Veterinarian in Charge or an APHIS representative designated by the Veterinarian in Charge will record on the APHIS indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals will receive a copy of the completed APHIS indemnity claim form. The owner is responsible for paying all fees for holding the animals on the farm pending disposal and for all trucking fees.

(b) Claims for indemnity for registered sheep and registered goats must be accompanied by the animal's registration papers, issued in the name of the owner. If the registration papers are unavailable or if the animal is less than 1 year old and not registered at the time the claim for indemnity is submitted, the Veterinarian in Charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers. Any animal that is not registered but is eligible for registration at the time the claim is submitted will be considered unregistered unless the animal has been in the flock for less than 12 months.

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### §51.31 Disinfecting premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, and materials contaminated because they have been used by animals destroyed because of brucellosis, must be properly cleaned and disinfected in accordance with recommendations of the

APHIS or State representative. Cleaning and disinfecting must be completed within 15 days from the date the animals were removed from the premises, except that the Veterinarian in Charge may extend the time limit for disinfection to 30 days when he or she receives a request prior the expiration date of the original 15 days, and when the Veterinarian in Charge determines that an extension will not adversely affect the Brucellosis Eradication Program. The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder disinfection of the premises, conveyances, and materials within 30 days, such as, but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner. A premises may be exempted from such cleaning and disinfecting requirements if the APHIS or State representative recommends it in writing and the Veterinarian in Charge approves.

(Approved by the Office of Management and Budget under control number 0579-0185)

#### § 51.32 Claims not allowed.

Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis will not be allowed if any of the following circumstances exist:

- (a) The claimant has failed to comply with any of the requirements of this part;
- (b) The claim is based on a brucellosis test, and the person who administered the test was not properly trained, authorized, or certified at the time of the test;
- (c) Testing of goats, sheep, and horses in the herd or flock for brucellosis was not done under APHIS or State supervision, or by an accredited veterinarian;
- (d) There is substantial evidence that the claim is an unlawful or improper attempt to obtain indemnity; or
- (e) If, at the time of test or condemnation, the animals belonged to or were upon the premises of any person to whom they had been sold for slaughter, shipped for slaughter, or delivered for slaughter.

#### § 51.33 Multiple indemnity payments.

APHIS has indemnity programs for several other livestock diseases. However, if a claim is paid for indemnity for animals destroyed because of brucellosis, no other claims for indemnity will be paid for the same animals.

### PART 52—SWINE DESTROYED BECAUSE OF PSEUDORABIES

Sec.

- 52.1 Definitions.
- 52.2 Payment of indemnity.
- 52.3 Appraisal of swine.
- 52.4 Presentation of claims.
- 52.5 Report of net salvage proceeds.
- 52.6 Claims not allowed.
- 52.7 Disinfection of premises, conveyances, and materials.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 64 FR 2549, Jan. 15, 1999, unless otherwise noted.

#### § 52.1 Definitions.

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any other employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, delegated to act in the Administrator's stead.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*APHIS employee.* Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

*Approved differential pseudorabies test.* Any test for the diagnosis of pseudorabies that can distinguish vaccinated swine from infected swine; is produced under license from the Secretary of Agriculture under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*) with indications for use in the Cooperative State-Federal